

REMARKS¹

In the outstanding Office Action the Office issued a new restriction and stated that the instant restriction supercedes the election of December 9, 2002. In particular the Office requested that Applicants restrict the application to one of the following group of claims: (I) claims 3-7; (II) claims 13-16; (III) claims 17-23; (IV) claims 24-26 and (V) claims 27-30.

Applicants provisionally elect to examine the claims directed to group V (i.e., claims 27-30) with traverse.

Applicants respectfully request reconsideration of the restriction requirement. The Manual of Patent Examining Procedure ("MPEP") explains the requirements for a proper restriction requirement. In particular, the MPEP states:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP Section 802.01, Section 806.04, Section 808.01) or distinct as claimed (see MPEP Section 806.05 - Section 806.05(i)); *and*

(B) There must be a serious burden on the examiner if restriction is required (see MPEP Section 803.02, Section 806.04(a) - Section 806.04(i), Section 808.01(a), and Section 808.02).

M.P.E.P. § 803 (emphasis added).

The fact that *both* criteria must be satisfied is made clear by the following statement in the MPEP: "If the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions." MPEP § 803 (emphasis added)).

¹ As a preliminary matter, Applicants' Counsel wishes to extend his gratitude to Examiner Michener for the courtesies extended during the telephonic interview of February 26, 2003.

Thus, if the subject matter of the pending claims is such that there would be no serious burden on the Examiner to search and examine all of the pending claims at the same time, the Examiner is to do so, *even if* the pending claims are drawn to independent or distinct inventions. Applicants respectfully submit that the instant group of claims, though patentably distinct, are related such that a prior art search directed to one group of claims can conceivably reveal art directed to all of the claims. Thus, the simultaneous examination of all of the claims would not pose a substantial burden on the Examiner. For at least these reasons Applicants respectfully request reconsideration and withdrawal of the restriction requirement.

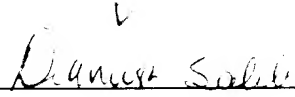
Finally, Applicants' counsel hereby confirm the amendment and the elections that were summarized in paragraph 10 of the outstanding Office Action.

Applicants respectfully request reconsideration and withdrawal of the restriction requirement and a speedy issuance of a substantive action on the merits. If any point remains that is deemed best resolved through a telephonic interview, the Examiner is respectfully invited to contact the undersigned attorney.

Although no fee is believed to be due, the Office is hereby authorized to charge any outstanding fee, including an extension of time fee, against Deposit Account Number 11-0600 to KENYON & KENYON.

Respectfully submitted,

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